



- Defendant's Motions to Strike (Doc. Nos. 39, 43, and 45) are **DENIED AS MOOT**.

**BY THE COURT:**

**/s/ Mitchell S. Goldberg**

**Mitchell S. Goldberg, J.**

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could [find] to the contrary.” See EEOC v. Del. Dep’t of Health & Soc. Servs., 865 F.2d 1408, 1414 (3d Cir. 1989).

The parties agree on the following facts: On February 22, 2014, Mr. King was found dead on the floor of his bedroom next to his wife, Niaja King, also deceased. Mr. King suffered a bullet wound to his head, and Mrs. King suffered multiple bullet wounds to her body. Police found three fired shell casings and one firearm near the bodies, though neither party has provided a forensic analysis linking the gun to the wounds. Present in the house were Mr. King’s mother and niece, neither of whom witnessed the deaths. The Philadelphia Medical Examiner’s Office concluded that the manner of Mr. King’s death was suicide. (Mot., Ex. D, Doc. No. 34-2, at 31-32, 123, 142; Id., Ex. E, Doc. Nos. 34-3, -4, and -5, at 3.)

The parties disagree on whether and how strongly these and other facts suggest suicide. Defendant’s expert, Ian Hood, authored a report affirming the medical examiner’s conclusion, based on, among other factors, the nature and location of Mr. King’s bullet wound, the reported pattern of gunshot sounds, the lack of testimony of screaming, the location of the bodies, the presence of the gun, and the timing of the couple’s deaths relative to their upcoming anniversary. (Mot., Ex. Q, Doc. No. 34-23, at 2-3.) Plaintiffs’ expert, Fredric Hellman, opined that other factors point against suicide: the couple’s ages and quality of their marriage, the presence of family members in their home, the crime rate of the neighborhood, Mr. King’s history as a victim of gun violence, and the unlocked front door. Dr. Hellman further stated that Mr. King’s contact bullet wound was not inconsistent with homicide, and would be in an awkward location for suicide. (Mot. Ex. M, Doc. No. 34-13, at 7; Id., Ex. O, Doc. No. 34-21, at 3.)

This evidence does not rise to a level that would entitle Defendant to summary judgment on its affirmative defense. It consists of factors that Defendant argues suggest suicide and which Plaintiffs contend are merely consistent with suicide. Rebutting these are factors that, in Plaintiffs’ view, make suicide less likely. Whether these factors suggest or refute suicide depends on which expert is believed, and the conclusion they produce depends, ultimately, on which factors carry the greater weight. These determinations are fundamentally those for the trier of fact. Accordingly, Defendant has not shown that no rational factfinder could disagree with its position.

Plaintiffs’ informal request for summary judgment to be entered in their favor is denied for the same reason.